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13 *Plaintiffs, Steffenson Plaintiffs, Clarke Plaintiffs,*
14 *Alex Barkaloff, and Burden Plaintiffs*

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO ALL
ACTIONS

Case No. 3:15-md-02672-CRB

**PLAINTIFF DAVID FIOL, BENPAYO
PLAINTIFFS, CLARKE PLAINTIFFS,
HILL PLAINTIFFS, STEFFENSEN
PLAINTIFFS, ALEX BARKALOFF,
AND BURDEN PLAINTIFFS
RECOMMENDATION FOR SPECIAL
SETTLEMENT MASTER SUBMITTED
PURSUANT TO PRE-TRIAL ORDER
NO. 1.¹**

¹ The undersigned counsel represents 196 class representative plaintiffs from each state in the Union and the District of Columbia who were named in two class actions that were filed in this District and five class actions that have been or will be transferred to this Court by the MDL Panel. For ease of reading, counsel will refer to their named class representative clients by the first named plaintiff in each class action and have attached a table with each named class representative plaintiff as Exhibit A.

Pursuant to this Court's Pre-Trial Order No. 1, dated December 9, 2015 (Dkt. No. 2), Plaintiffs David Fiol, Benipayo Plaintiffs, Hill Plaintiffs, Steffensen Plaintiffs, Clarke Plaintiffs, Alex Barkaloff, and Burden Plaintiffs, through their counsel Hagens Berman Sobol Shapiro LLP and Quinn Emanuel Urquhart and Sullivan LLP, respectfully recommend the Court appoint a single special settlement master. Counsel propose the following candidates: Hon. Layn Phillips, Hon. Edward Infante, or Mag. Judge Joseph Spero.

Counsel do not make this recommendation in a vacuum, based only upon prior working experience with these candidates on other, necessarily different, cases. Rather, as detailed below, counsel have: (1) developed a wealth of knowledge pertaining directly to this case from our extensive client contacts and significant work to date with the leading experts on the issues presented here; and (2) been lead or co-lead in the three largest automotive defect economic loss cases in US History; and in the case of Quinn Emanuel, advised defendants in those cases. With this basis of knowledge and experience, counsel make their recommendations with confidence that appointment of one of these candidates will significantly assist the parties and the Court in advancing resolution of this case to the full extent and as expeditiously as possible.

I. COUNSEL'S KNOWLEDGE PERTAINING TO THIS CASE

As noted in the MDL Panel's consolidation order, Hagens Berman filed the first class action against Volkswagen concerning its diesel emissions fraud on September 18, 2015. Hagens Berman and Quinn Emanuel have filed six additional class actions with 196 class representative plaintiffs from every state and the District of Columbia. In total, 1,813 California residents, and 7,067 TDI owners from throughout the United States, have engaged Hagens Berman to represent them for their claims against VW. Over 13,160 TDI owners have requested that Hagens Berman represent them, or provide them with ongoing updates and information concerning this litigation. Beginning in early November and continuing today, Hagens Berman distributed a detailed damages survey to TDI owners from which we have received 3,056 responses.

II. COUNSEL'S DIRECT EXPERIENCE IN THE LARGEST AUTOMOTIVE DEFECT ECONOMIC LOSS CASES IN THE U.S.

In responding to the Court's inquiry regarding a Special Settlement Master, and in response

1 to recommendations that multiple masters be appointed, the undersigned counsel bring unparalleled
 2 experience in handling nationwide automotive defect cases and have perhaps unique insight into
 3 what would be most helpful in this case. Briefly, for the Court's benefit in understanding the basis
 4 for counsel's view, Steve Berman was lead counsel in the Toyota Sudden Unintended Acceleration
 5 (SUA) litigation, in which Toyota owners obtained the largest automotive economic loss settlement
 6 in history, valued at over \$1.6 billion. Mr. Berman is currently co-lead counsel in the GM Ignition
 7 Switch Defect litigation, which may even surpass Toyota in scope and recovery to class members.
 8 Hagens Berman was also lead counsel in the Hyundai/Kia MPG Fraud litigation, which resulted in
 9 the second largest automotive class recovery of \$255 million.

10 Quinn Emanuel was lead defense counsel in the Hyundai/Kia MPG Fraud litigation, and
 11 has served as lead counsel in more than 20 MDL proceedings. Quinn Emanuel's perspective on
 12 the advantages of a single settlement master is informed by experience representing both plaintiffs
 13 and defendants in these numerous MDLs.

14 **III. APPOINTMENT OF A SINGLE SETTLEMENT MASTER IS
 15 APPROPRIATE IN THIS CASE**

16 Respectfully, we submit that appointment of a single settlement master is not only
 17 adequate, but will be more efficient and more likely to resolve this litigation as expeditiously as
 18 reasonably possible. This belief is based on over 3,050 responses to our damages survey,
 19 information from our experts, and counsels' extensive experience in cases very much like this case,
 20 including cases which involved foreign manufacturers and wrongdoing committed abroad. These
 21 cases were resolved efficiently and fairly with a single settlement master or without one at all.

22 The survey responses from our several thousand clients do not evidence any great disparity
 23 in the expectations of consumers in the several states. We successfully have negotiated and
 24 implemented numerous nationwide economic loss cases including Toyota SUA and Hyundai/Kia
 25 MPG. That various models and model years are affected is also not unique to this case. Both
 26 Toyota and Hyundai/Kia involved many models of vehicles and Toyota spanned 13 years of model
 27 production. Nonetheless, comprehensive settlements which fairly differentiated recoveries among
 28 the model years and vehicle types were reached without multiple special settlement masters.

Likewise, the existence of parallel government investigations does not render the case unmanageable by a single settlement master. There were multiple parallel government investigations in Toyota SUA and Hyundai MPG, and there are both civil and criminal investigations on parallel tracks with the GM Ignition Switch litigation. Parallel government investigations were not a hindrance to settlement in Toyota SUA and Hyundai/Kia MPG, and we do not believe they will be a hindrance in GM Ignition Switch or in this case.

A single special master, with an overall understanding and view of the case, will likely be key to a possible early resolution. The persons being proposed in the many submissions on this issue are accomplished and in demand, and trying to schedule around multiple busy calendars will complicate, not streamline the matter. Continuous dialogue with one skilled special master whose schedule allows a significant time commitment to this case should be the goal.

Provided his schedule would allow the necessary time and degree of commitment, Hon. Layn Phillips would be an excellent Special Master in this case, as would Hon. Edward Infante. Alternatively, counsel suggests appointing Judge Joseph C. Spero, with whom the Court could comprehensively integrate settlement discussions and the many other early issues that will arise in this case. Judge Spero's intellect, ingenuity, attention to detail and tremendous work ethic have proved invaluable and made him highly successful in the resolution of numerous large class cases, including cases where he has worked with this Court.

DATED: December 15, 2015 HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Steve W. Berman
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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2015, I electronically transmitted the attached documents to the Court Clerk using the ECF System for filing. The Clerk of the Court will transmit a Notice of Electronic Filing to all ECF registrants.

By /s/ Steve W. Berman
STEVE W. BERMAN

EXHIBIT A

1	FIOL v. VOLKSWAGEN	3:15-cv-04278 (N.D. Cal.)	9/18/2015
2	DAVID FIOL		
3	BENIPAYO v. VOLKSWAGEN	3:15-cv-04314 (N.D. Cal.)	9/21/2015
4	NICHOLAS BENIPAYO	ANTHONY DEMARTINO	EMILY FISHER
5	MARK CARNETT	PETAR RAMADANOVIC	KSHANTI GREENE
6	DANIEL ROBINSON	CHRISTOPHER MONROE	JOHN HALLORAN
7	JONATHON HORACEK	MELISSA BRACKEN	SCOTT MOEN
8	STEFANIE BEAUDREAU	REZEDA DOZIER	GRANT GALL
9	JAMES BABIAK	JOHN DULL	VAN HAYNES
10	DAVID GOODSON	MELISSA FEDORCZYK	ALFRED HOWE
11	JOSHUA CAMPBELL	DAVID ANTELLOCY	
12	STEFFENSEN v.		
13	VOLKSWAGEN	1:15-cv-1218 (E.D. Va.)	9/23/2015
14	KIRK STEFFENSON	CHARLES HALL	SUSAN WALL
15	SUSAN TARRENCE	REBECCA PERLMUTTER	CARL JOHNSON
16	TERRY HIGHT	JOE HARRISON	ALEXANDER LASKOVSKI
17	SARAH MUTKA	DAVID SIBLEY	ROBERTA DUBOISE
18	MARK WEBER	MATTHEW HEINLY	JESSICA ALBER
19	DAVID WINTERS	RACHEL SULLIVAN	LAURA SWENSON
20	ALEXANDER VALDES	HERB YUSSIM	JOSHUA MILLER
21	DAVID MANN	CHRISTOPHER MITZAK	
22	HILL v. VOLKSWAGEN	2:15-cv-07604 (C.D. Cal.)	9/28/2015
23	JESS HILL	CHRISTINA PAOLICCHI	MATTHEW OLOVSON
24	KEVIN JENTES	ADAM FRUGOLI	WILLIAM MACKEY
25	MALIA SIAS	TRACEY ROSEN	EDWARD SIMMONS
26	ARTHUR SCHAREIN	JEFFREY BRADY	CHARLES HALL
27	MICHAEL BOZINE	BOUALIVANH	KOTAB HOLDINGS LLC
28	CLIFFORD BROUSSARD	PHANHPHONGSANE	ALAN BRANTING
	VICTORIA MCCLELLAND	BRENDA PENNEY	CHAD RAMOS
	JEREMIAH HOLDEN	MICHAEL ANTIS	STEVEN BOLDUC
	HILDEGARD REISER, M.D.	ALEX ARCENEAUX	JOSEPH AVENA
	SPENCER MOORE	G. KEATING PEPPER	ANDREW MASTERS
	JOHN GAUGER	DEVAN WANG	STEVEN KOLPAN
	HANAA RIFAEY	ROBERT HOOKER	PAUL PURYEAR
	DEBORAH MARKWARD	GARY VAN GUILDER	MICHELLE GRAMLING
	JOHN BROWN	BARRY CROSS	DAVID PYLE
		JUSTIN HOLLOWAY	

1	CARLOS ORTIZ	KELLY KING	HEATHER
2	BRIAN MILLS	KAREN NORMAN	GREENFIELD
3	SCOTT TAYLOR	ANDREW VENTURA	KYLE BOYLAND
4	ANDREW BELL	TROY PONTO	RALPH
5	BARKALOFF v.		MENDENHALL
6	VOLKSWAGEN	2:15-cv-07997 (C.D. Cal.)	ALEXANDER
7	ALEX BARKALOFF		BAITTINGER
8	CLARKE v. VOLKSWAGEN	2:15-cv-07549-JLL-JAD	10/16/2015
9	AMY CLARKE	(D.N.J.)	DONALD ALLEN
10	MARK GJONBALAJ	MATTHEW MIKULSKY	LUIS MORENO
11	JOHN MCLAUGHLIN	RICHARD GROGAN	CHARLES NICOLOSI
12	KELLY MULLIGAN-MAHONEY	CHAD DIAL	
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15	DAVID SIBLEY	ERIC WHITE	LINDA HUNT
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17	KURT MALLORY	DANIEL OHLSTEIN	PAUL HARRIS
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19	MARYBETH WINKLER	WENDY GOLDNER	HARRY WALSH
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22	SIMON BEAVEN	ANGELA WAGNER	CESAR OLmos
23	STEVE MORTILLARO	CHARLES ROBBINS	THOMAS LASKO
24	RYAN GEIER	THOMAS BUCHBERGER	JOHN GAMBLE
25	DANIEL SULLIVAN	CARLA BERG	LESLIE MACLISE-KANE
26	BARRY GLUSTOFF	KYLE TISDEL	JASON HILL
27	THOMAS AYALA	CRAIG LYBARGER	AARON JOY
28	JAMES BERGMANN	BRITNEY SCHNATHORST	ROBERT MILLER
		JONATHON RODGERS	RAMON SAN NICOLAS
	BURDEN v. VOLKSWAGEN	2:15-cv-09125 (C.D. Cal.)	11/24/2015
	DENNIS BURDEN	NATHAN FORBES	TODD SCHWARZ
	PATRICIO BURILLO	JOSH GOLDEN	MATTHEW SNYDER
	JOHN CHAPMAN	MICHAEL GUILBAULT	DOUGLAS STEWART
	SAMUEL CLARK	CHISEPE GWARADA	NATHAN STRICKER

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5 CHERYL DEWORKEN
6 JAIME DREIKOSEN
7 TIM ELDRIDGE
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JONATHAN HUGGETT
RYAN HURST
SUSAN KEOHAN
ERIK MIKKELSEN
ALEXANDER POLILLO
JEROME FOHET

MORTON KENT
TAYLOR
ANDREW WALKER
CONSTANCE
WOLFSON
PENGHUI XUE
ROMAN
ZVYAGELSKY
RICHARD
REMINGTON
ROBERT RIFKIN